

Staff Summary Report



Hearing Officer Hearing Date: April 15, 2008

Agenda Item Number: 5

SUBJECT: This is a public hearing for a request by the **LEWIS RESIDENCE** located at 330 East Lilac Drive for one (1) variance.

DOCUMENT NAME: 20080415dsng02

PLANNED DEVELOPMENT (0406)

SUPPORTING DOCS: Yes

COMMENTS: Hold a public hearing for a request by the **LEWIS RESIDENCE (PL080107)** (Marshall & Virginia Lewis, applicant/property owner) located at 330 East Lilac Drive in the R1-4, Single Family Residential District for:

VAR07027 Variance to reduce the rear yard setback from ten (10) feet to three (3) feet (patio cover).

PREPARED BY: Nick Graves, Planning Intern (480-350-8690)

REVIEWED BY: Steve Abrahamson, Planning & Zoning Coordinator (480-350-8359)

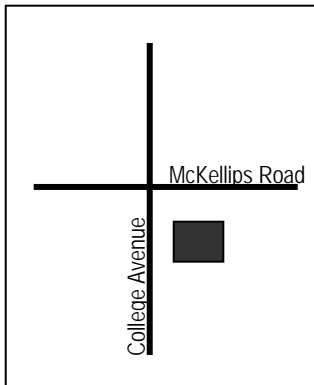
SEA

LEGAL REVIEW BY: N/A

FISCAL NOTE: N/A

RECOMMENDATION: Staff – Denial

ADDITIONAL INFO: The applicant is requesting a variance to reduce the required rear yard setback from ten (10) feet to three (3) feet for a patio cover. The Lewis Residence is located at 330 East Lilac Drive in the R1-4, Single Family Residential District. A neighborhood meeting was held on April 1, 2008, and one resident was in attendance. Staff recommends denial of the variance owing to lack of hardship, special circumstances, and evidence indicating potential loss of substantial property rights. To date, no public input has been submitted for this request.



PAGES:

1. List of Attachments
2. Comments; Reason(s) for Denial
3. Conditions of Approval; History & Facts/Description;
Zoning & Development Code Reference

ATTACHMENTS:

1. Location Map
2. Aerial Photo
3. Letter of Intent
4. Results of Neighborhood Meeting Letter
5. Site plan
6. Elevation View Plan
7. Westerly Elevation View Plan
- 8-9. Staff Photograph(s)

COMMENTS:

The Lewis Residence is requesting a variance to reduce the rear yard setback from ten (10) feet to three (3) feet. The property is located in the Marlborough Park Villas neighborhood within the R1-4, Single Family Residential District. The applicant intends to construct a 280 sf. patio cover attached to his home that would encroach into the rear yard setback thus requiring the variance. The lots within the Marlborough Park Villas subdivision are similar in size with few lots having an irregular shape.

The applicant held the required neighborhood meeting for the variance on Tuesday, April 1, 2008 at 7:00 pm. Only one person was in attendance. The approval criteria for a variance in the Zoning and Development Code have not been met. There does not appear to be a hardship, and moreover, no special circumstance or condition applies to the land. Staff notes that a use permit standard to reduce the rear yard setback by twenty percent (20%) from ten (10) feet to eight (8) feet could be an alternate option. This would allow the Lewis Residence to still have a covered patio attached to the main residence extending 6' - 6" into the rear yard instead of 11' - 6" as proposed, and it would meet the proposed, alternate eight (8) foot setback.

To date, staff has received no public input on this case.

Variance

The Zoning and Development Code requires a variance to reduce the rear yard setback from ten (10) feet to three (3) feet in the R1-4, Single Family Residential District.

Evaluating the variance, the proposal does not appear to meet the criteria for approving the variance:

- a. There are special circumstances or conditions applying to the land, building, or use referred to in the application;
 - The applicant has indicated that the special circumstance is a need to improve the cooling efficiency of the home by shading the sun from the backside. There is no evidence of special circumstance keeping with the land, building or use.
- b. That authorizing the variance is necessary for the preservation and enjoyment of substantial property rights;
 - A reduction of the required rear yard setback from ten (10) feet to three (3) feet for a patio is not necessary for enjoyment of substantial property rights.
- c. A variance may not be granted if the special circumstances applicable to the property are self-imposed by the property owner.
 - The owner has created a need for this variance by proposing a new patio cover that encroaches into the required rear yard setback; therefore, this is self-imposed by the owner.

Conclusion

Staff recommends denial of the variance.

REASON(S) FOR DENIAL:

1. No special circumstances or conditions applying to the land, building or use exist.
2. The authorizing of the variance is not necessary for the preservation and enjoyment of substantial property rights.
3. Authorization of the variance may be materially detrimental to persons residing or working in the vicinity, to adjacent property, to the neighborhood or to the public welfare in general.

SHOULD THE HEARING OFFICER ELECT TO TAKE AFFIRMATIVE ACTION ON THE REQUEST, THE FOLLOWING CONDITIONS OF APPROVAL SHOULD APPLY.

CONDITION(S)
OF APPROVAL:

- 1. Obtain all necessary clearances from the Building Safety Division.
- 2. The patio cover shall match the main residence in color, design, and materials.

HISTORY & FACTS:

July 12, 1979	<u>S – 73.29</u> - Variance approved to reduce the rear yard setback from fifteen (15) feet to ten (10) feet through the Final Subdivision P.A.D. Map for Marlborough Park Villas & Marlborough Park Estates.
April 12, 1984	Final inspection for a single family home (townhome).

DESCRIPTION:

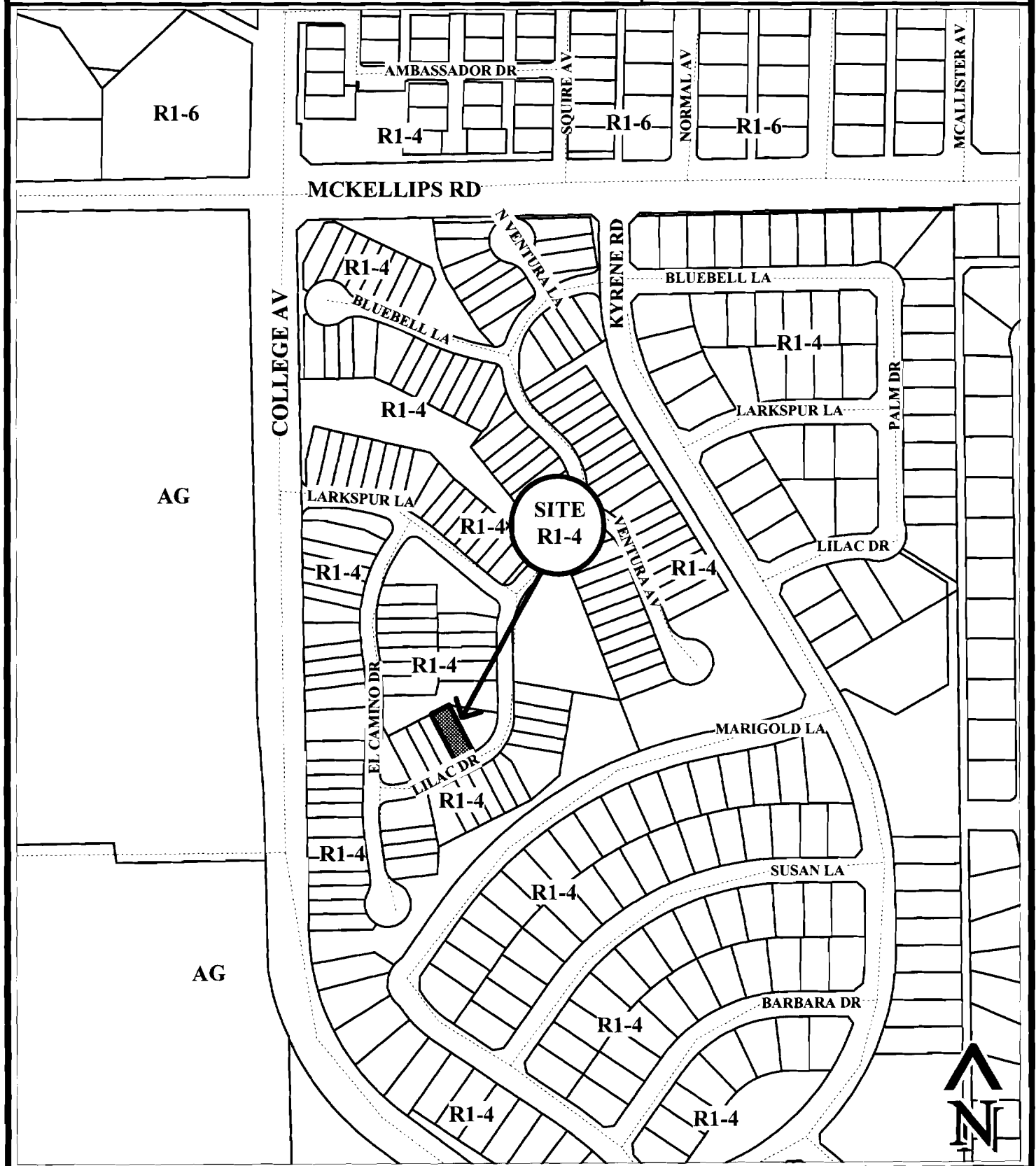
Owner – Marshall Lewis
Applicant – Marshall Lewis
Existing Zoning – R1-4, Single Family Residential District
Existing required rear yard set back - 10 feet
Proposed rear yard set back - 3 feet
Main Residence Area - 1,633 sf.
Proposed Patio Area - 280 sf.
Lot Area - 4,095 sf./0.09 acres
Lot Coverage - No Standard

ZONING AND
DEVELOPMENT

CODE REFERENCE:	Part 4, Chapter 2, Section 4-202 – Development Standards for Residential Districts Part 6, Chapter 3, Section 6-309 – Variances
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LEWIS RESIDENCE

PL080107





LEWIS RESIDENCE (PL080107)

**Marshall L. & Virginia M. Lewis
330 E Lilac Dr
Tempe, Arizona 85281**

18 March 2008

City of Tempe
Development Services
31 East Fifth Street
Tempe, AZ 85280-5002

Subject: Letter of Explanation

To Whom It May Concern:

I am requesting a variance to the offset distance of ten (10) feet that is imposed at the back of my property located at 330 E Lilac Dr Tempe, AZ 85281 for the purpose of constructing a patio cover. I request consideration for this variance for the following reasons:

1. My back yard is 38'9"W X 14'5" D hence with a ten (10) foot offset imposed my patio would be restricted to 4'5"D.
2. Being allowed to construct the designed patio would contribute greatly to improving the cooling efficiency of my home by shading the sun from the backside which is where the master bed room and kitchen are located.
3. I feel it would enhance the appearance and improve value of my home which contributes to the overall appearance of my community.
4. It will increase the available square footage of my home for personal relaxation and for use to entertain family and guest.
5. Since the nearest neighbor to the back of my property is approximately fifty (50) feet away and we are separated by a drainage ditch, the proximity should not be a factor.

Thank you for your time and your favorable consideration for my request would be greatly appreciated.

Sincerely,



Marshall L. Lewis

Graves, Nick

From: Marshall Lewis [Marshall.Lewis@robertsonaviation.com]
Sent: Wednesday, April 02, 2008 10:36 AM
To: Graves, Nick
Subject: HOME MEETING

Nick,

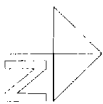
Again I want to thank you for your assistance and understanding in the matter of my request for variance. The results of my home meeting to address my neighborhood response to my request for variance are as follows:

The signs were posted and letters sent out to my surrounding neighbors announcing that there would be an open meeting at my residence at 7:00 PM on April 1, 2008. Only one neighbor attended, Ms Irene Doody and her visit was more out of curiosity because she was well versed on our patio cover situation. However, I have had several neighbors stop by my house over the course of the last two weeks after receiving their letters and noticing the signs posted in my front yard. All were curious but totally unaware that there was a "set back" issue with any of the properties in our community and like myself, do not really understand the down side of infringing on this "set back". I do reluctantly accept that rules are rules and ignorance is no excuse. I have had offers from some neighbors to write letters in support of my request but up to now I have declined those offers but I think after further consideration I may entertain having my neighbor immediately to the West of my property submit a letter on my behalf as they will be the ones potentially effected most by the construction of my patio cover.

Again, thank you for your cooperation and assistance.

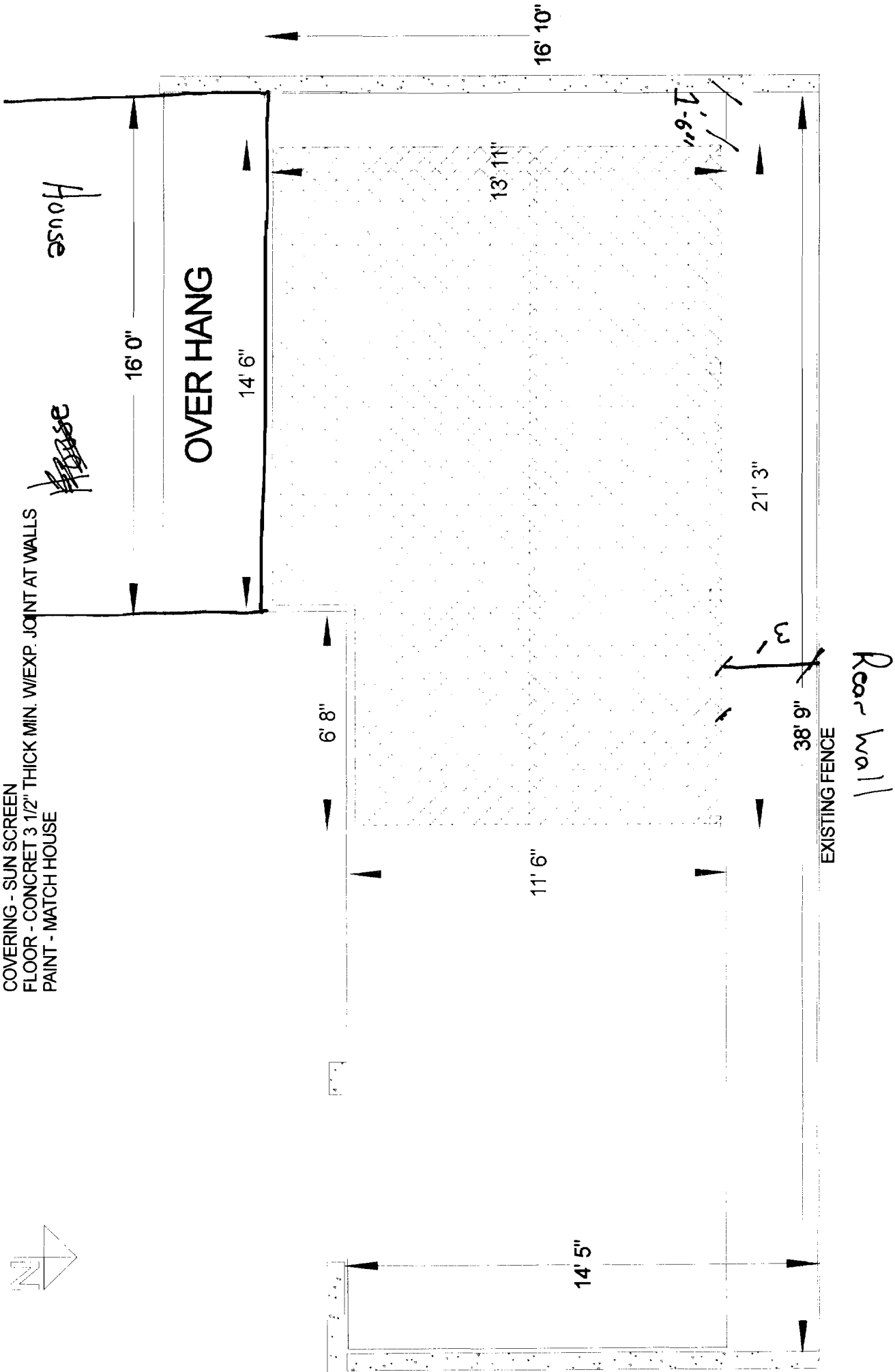
Sincerely,
Marshall L. Lewis
(602) 316-0190
hooterlew@cox.net

MARSHALL L. LEWIS
330 E. LILAC DR



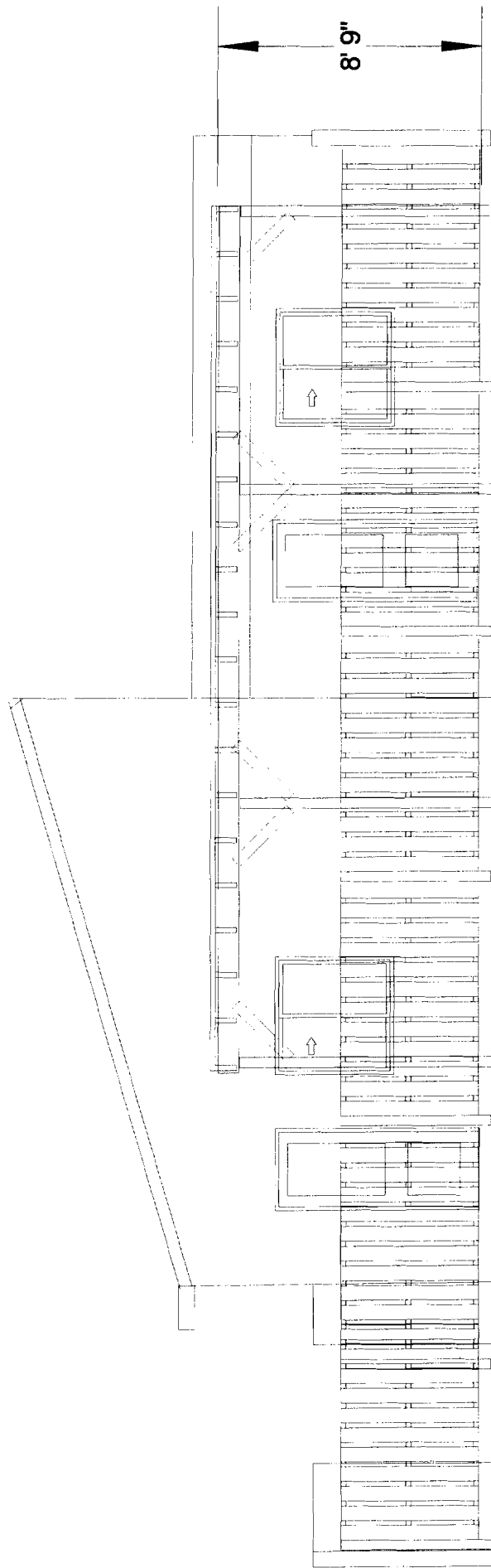
BILL OF MATERIALS:

JOIST - 2"x8" DOUGLAS FIR ATTACHED TO HEADERS W/SIMPSON HARDWARE
HEADERS - 2"x8" DOUGLAS FIR ATTACHED TO HOUSE USING 6 1/2"x3/8 LAG BOLTS
VERTICAL POST - 4"x4" TREATED #2 OR BETTER FIR
VERTICAL POST ANCHORED TO CONCRETE SLAB W/3/8"x3" RAWL 5 PICE CONCRET ANCHORS & SIMPSON HARDWARE
ROOF - 4'X8'X3/8" REDWOOD LATICE
SIMPSON HARDWARE ATTACHED USING 1.5" TICO NAILS
COVERING - SUN SCREEN
FLOOR - CONCRET 3 1/2" THICK MIN. W/EXP. JOINT AT WALLS
PAINT - MATCH HOUSE



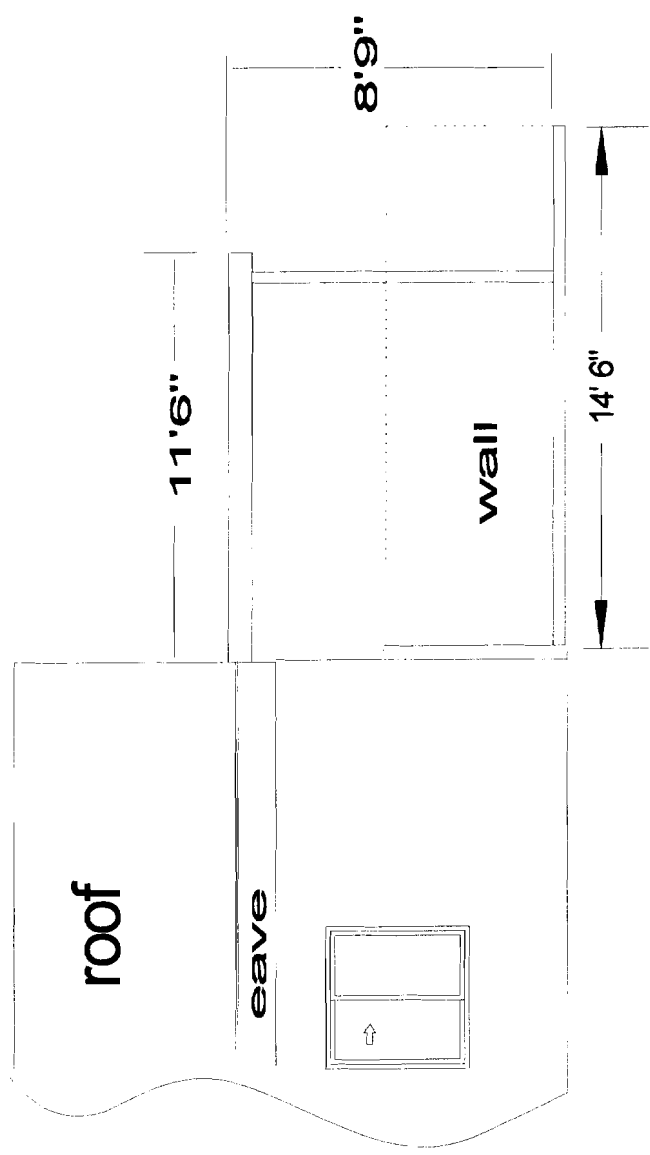
MARSHALL L. LEWIS
330 E. LILAC DR

ELEVATION VIEW



MARSHALL L. LEWIS
330 E LILAC DR

WESTERLY ELEVATION VIEW





LEWIS RESIDENCE

330 E LILAC DR

PL080107

FRONT OF RESIDENCE





LEWIS RESIDENCE

330 E LILAC DR

PL080107

REAR YARD OF RESIDENCE: VIEW TO WEST

